

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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JAN 22 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
All West Communications, Inc., )  
Carbon/Emery Telcom, Inc., Central Utah )  
Telephone, Inc., Hanksville Telcom, Inc., )  
Manti Telephone Company, Skyline )  
Telecom, UBET Telecom, Inc. and )  
Qwest Corporation )  
 )  
Joint Petition for Waiver of the Definition )  
of "Study Area" Contained in Part 36, )  
Appendix--Glossary of the Commission's )  
Rules; )  
 )  
Petition for Waiver of Section 61.41(c) )  
and (d), 69.3(e)(11) and 69.605(c) of the )  
Commission's Rules )

CC Docket No. 96-45 /

JOINT MOTION TO STRIKE PETITION  
OR, ALTERNATIVELY, ACCEPT RESPONSE

Qwest Corporation<sup>1</sup> ("Qwest") and All West Communications, Inc. ("All West"), Carbon/Emery Telcom, Inc. ("Carbon/Emery"), Central Utah Telephone, Inc. ("Central Utah"), Hanksville Telcom, Inc. ("Hanksville"), Manti Telephone Company ("Manti"), Skyline Telecom ("Skyline") and UBET Telecom, Inc. ("UBET") (referred to hereinafter collectively as "Acquiring Companies") filed an Expedited Joint Petition for Waivers ("Joint Petition") in the above-captioned proceeding on October 6, 2000. The Joint Petition was filed in connection with the sale by Qwest

<sup>1</sup> On June 30, 2000, U S WEST, Inc., the parent and sole shareholder of U S WEST Communications, Inc., merged with and into Qwest Communications International Inc. Further, on July 6, 2000, U S WEST Communications, Inc. was renamed Qwest Corporation.

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to the Acquiring Companies of twelve Utah exchanges serving approximately 35,600 access lines. A Public Notice,<sup>2</sup> in which the Federal Communications Commission (“Commission”) sought comment on the Joint Petition, was released on October 18, 2000. Comments were filed by the United States Telecom Association, the National Telephone Cooperative Association and Beehive Telephone Co., Inc. (“Beehive”) on November 2, 2000. Qwest and the Acquiring Companies filed Reply Comments in response to the Comments and in support of their waiver requests on November 13, 2000. The Joint Petition remains pending before the Commission.

On January 5, 2001, Beehive electronically petitioned the Commission to “take notice of the Order dated January 3, 2001, of the Utah Public Service Commission, which creates Docket No. 00-040-01, to schedule hearings [for] March 21 and 22.” Beehive alleges that these hearings will address the issues raised by Beehive in its November 2, 2000 Comments, and therefore the Commission should not take action on the portion of the Petition for Waivers that relates to three of the Acquiring Companies, Central Utah, Skyline and Hanksville.

The January 5, 2001 “Petition” of Beehive is procedurally defective and untimely inasmuch as the official pleading cycle in connection with the Joint Petition closed on November 13, 2000. Qwest and the Acquiring Companies therefore move to strike the “Petition” of Beehive. Alternatively, if the Commission will not grant this Joint Motion to Strike the “Petition,” then Qwest and the

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<sup>2</sup> 2000 FCC Lexis 5498.

Acquiring Companies request that the Commission accept the following response to Beehive's "Petition."

Beehive's "Petition" mischaracterizes the subject matter of the Utah Public Service Commission Docket No. 00-040-01. The docket was commenced on November 21, 2000, when Central Utah filed an Application with the Utah Commission for the sole purpose of seeking approval of the transfer by the shareholders of Central Utah of the common stock of Central Utah to Lynch Telephone Corporation X ("Lynch"). The January 2, 2001 Notice of Proceedings issued by the Utah Public Service Commission in Docket No. 00-040-01 merely schedules hearings on Central Utah's petition.<sup>3</sup> It in no way states or implies that the Utah Commission is reconsidering its Report and Order dated September 6, 2000 in Docket No. 99-049-65, approving the sale of the 12 exchanges which are the subject of this docket including the sale of three exchanges to Central Utah and its wholly-owned subsidiary Skyline Telecom. The sale of the exchanges by Qwest to Central Utah and Skyline Telecom is not at issue in Docket No. 00-040-01. As noted in our Reply Comments, the Utah Public Service Commission's Order approving the sale of the Dugway and Wendover exchanges to Skyline Telecom is final and non-appealable. There is clearly no basis for Beehive's assertion that the Utah Public Service Commission will reconsider its approval of the sales of the subject exchanges to Skyline Telecom in the course of the Docket No. 00-040-01 proceedings.

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<sup>3</sup> A copy of the Notice of Proceedings is attached as Appendix 1.

Beehive's suggestion that the Commission should delay action on the sale of exchanges from Qwest to Central Utah and Skyline in this docket pending the outcome of Docket No. 00-040-01 has no merit. Even assuming for the sake of argument that the Utah Public Service Commission does not approve the transfer of stock from the shareholders of Central Utah in Docket No. 00-040-01, that decision will have no impact on the sale of exchanges from Qwest to Central Utah and Skyline Telecom which is the subject of this docket. If, on the other hand, the Utah Public Service Commission approves the transfer of the stock of Central Utah to Lynch, it will do so based on a finding that the transfer is in the public interest.<sup>4</sup>

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<sup>4</sup> Utah Code Ann. § 54-4-29 provides:


Hereafter no public utility shall purchase or acquire any of the voting securities or the secured obligations of any other public utility engaged in the same general line of business without the consent and approval of the Public Utilities Commission, which shall be granted only after investigation and hearing and finding that such purchase and acquisition of such securities, or obligations, will be in the public interest.

Qwest and the Acquiring Companies hereby move to strike the Beehive  
"Petition," or alternatively, request that the Commission accept their response to  
the issues raised by Beehive.

Respectfully submitted,


ALL WEST COMMUNICATIONS, INC.,  
CARBON/EMERY TELCOM, INC., CENTRAL  
UTAH TELEPHONE, INC., HANKSVILLE  
TELCOM, INC., MANTI TELEPHONE  
COMPANY, SKYLINE TELECOM AND UBET  
TELECOM, INC.

By

  
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QWEST CORPORATION

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January 22, 2001

## APPENDIX 1

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

In the Matter of the Application of Central  
Utah Telephone, Inc., for an Order  
Approving the Acquisition of the Stock of  
Central Utah Telephone, Inc. by Lynch  
Telephone Corporation X.

DOCKET NO. 00-040-01

**NOTICE OF PROCEEDINGS**

By the Commission:

Notice is hereby given of the consideration of the approval of the application for the sale and transfer by the stockholders of Central Utah Telephone, Inc. of all of the outstanding shares of stock of Central Utah Telephone, Inc. to Lynch Telephone Corporation X. Central Utah Telephone, Inc., and its wholly-owned subsidiaries, Skyline Telecom and Bear Lake Communications, Inc., own and operate the telephone exchanges in Fairview, Moroni, Fountain Green, Spanish Fork Canyon, Soldier Summit, Scofield, Goshen, Eureka, and Garden City. In addition, Central Utah Telephone, Inc., has agreed to acquire the Mt. Pleasant exchange, and Skyline Telecom has agreed to acquire the Dugway and Wendover exchanges, from QWEST.

Notice is further given that those desiring to file a Petition to Intervene in this matter for consideration by the Commission must do so on or before Monday, January 29, 2001. All Petitions to Intervene must be in writing, stating the reasons for intervention and be filed with the Commission at 160 East 300 South, Fourth Floor, Salt Lake City, Utah 84111, Attention: Julie Orchard, Commission Secretary.

Hearings before the Commission on the proposed sales of exchanges will be held Wednesday, March 21, 2001 and Thursday, March 22, 2001. The hearings shall be held in the Commission's Hearing Room 426, Fourth Floor, Heber M. Wells State Office Building, 160 East 300 South, Salt Lake City, Utah, and shall commence at 9:00 a.m. on the dated indicated unless otherwise directed by the Commission.

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this hearing should notify Julie Orchard, Commission Secretary, at 160 East 300 South, Salt Lake City, Utah, 84111, (801) 530-6713, at least three working days prior to the hearing.

DATED at Salt Lake City, Utah, this 2<sup>nd</sup> day of January, 2001.

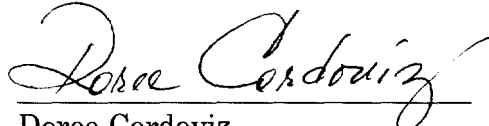
/s/ Julie Orchard  
Julie Orchard  
Commission Secretary





## CERTIFICATE OF SERVICE

I, Doree Cordoviz, do hereby certify that on the 22<sup>nd</sup> day of January, 2001, I have caused a copy of the foregoing **JOINT MOTION TO STRIKE PETITION OR, ALTERNATIVELY, ACCEPT RESPONSE** to be served, via hand delivery (marked with an asterisk) or first class United States mail, postage prepaid, upon the persons listed on the attached service list.

  
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